



FEDERAL ELECTION COMMISSION  
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 2497

DATE SCANNED 9-7-12

SCANNER NO. 2

SCAN OPERATOR ALP

12092680974



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

2011 NOV 15 A 9 19

November 14, 2011

**SENSITIVE**

MEMORANDUM

TO: The Commission

THROUGH: Alec Palmur *AP*  
Staff Director

FROM: Patricia Carmona *PC*  
Chief Compliance Officer

Debbie Chacona *DC*  
Assistant Staff Director  
Reports Analysis Division

BY: *W* Jodi Winsbip/Sari Pickeral *SP*  
Compliance Branch

SUBJECT: Reason To Believe Recommendation – 2011 September Monthly Report for the Administrative Fine Program

Attached is the name of a political committee and its treasurer who failed to file the 2011 September Monthly Report in accordance with 2 U.S.C. 434(a). The September Monthly Report was due on September 20, 2011.

The committee listed in the attached RTB Circulation Report failed to file the report. In accordance with the schedule of civil money penalties for reports at 11 CFR 111.43, this committee should be assessed the civil money penalties highlighted on the attached circulation report.

**Recommendation**

1. Find reason to believe that the political committee and its treasurer listed on the RTB Circulation Report violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalties would be the amounts indicated on the RTB Circulation Report.
2. Send the appropriate letter.

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12092680976

11/14/2011 3:59 PM

## Federal Election Commission

## Reason to Believe Circulation Report

2011 SEPTEMBER MONTHLY Not Election Sensitive 09/20/2011 P\_UNAUTH

| AF#  | Committee ID | Committee Name                  | Candidate Name | Treasurer      | Threshold   | PV | Receipt Date | Days Late | LOA       | RTB Penalty |
|------|--------------|---------------------------------|----------------|----------------|-------------|----|--------------|-----------|-----------|-------------|
| 2497 | C00040857    | OAKLAND COUNTY DEMOCRATIC PARTY |                | JERRY L. BIXBY | \$1,415,234 | 0  | 9/26/2011    | 6         | \$148,075 | \$1,410     |

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
Reason To Believe Recommendation - ) AF 2497  
2011 September Monthly Report for the )  
Administrative Fine Program )

CERTIFICATION

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election  
Commission, do hereby certify that on November 16, 2011, the Commission  
decided by a vote of 6-0 to take the following actions in AF 2497:

1. Find reason to believe that the Oakland County Democratic Party  
and Jerry L. Bixby, treasurer violated 2 U.S.C. 434(a) and make a  
preliminary determination that the civil money penalties would be in  
the amount of \$1,410.
2. Send the appropriate letter.

Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and  
Weintraub voted affirmatively for the decision.

Attest:

November 16, 2011  
Date

Shawn Woodhead Werth  
Shawn Woodhead Werth  
Secretary and Clerk of the Commission



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

November 17, 2011

Jerry L. Bixby, in official capacity as Treasurer  
Oakland County Democratic Party  
91 N. Saginaw Street, Suite G-100  
Pontiac, MI 48342

C00040857  
AF#: 2497

Dear Mr. Bixby:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file a September Monthly Report of Receipts and Disbursements covering the period through August 31st. This report shall be filed no later than September 20th. 2 U.S.C. § 434(a). Records at the Federal Election Commission ("FEC") indicate that this report was filed on September 26, 2011, 6 days late.

The Act permits the FEC to impose civil money penalties for violations of the reporting requirements of 2 U.S.C. § 434(a). 2 U.S.C. § 437g(a)(4). On November 16, 2011, the FEC found that there is reason to believe ("RTB") that Oakland County Democratic Party and you, in your official capacity as treasurer, violated 2 U.S.C. § 434(a) by failing to file timely this report on or before September 20th. Based on the FEC's schedules of civil money penalties at 11 CFR § 111.43, the amount of your civil money penalty calculated at the RTB stage is \$1,410. Please see the attached copy of the Commission's administrative fine regulations at 11 CFR §§ 111.30-111.46. Attachment 1. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. See <http://www.fec.gov/af/af.shtml>. 11 CFR § 111.34. Your payment of \$1,410 is due within forty (40) days of the finding, or by December 26, 2011, and is based on these factors:

Election Sensitivity of Report: Not Election Sensitive  
Level of Activity: \$148,075  
Number of Days Late: 6  
Number of Previous Civil Money Penalties Assessed: 0

At this juncture, the following courses of action are available to you:

**1. If You Choose to Challenge the RTB Finding and/or Civil Money Penalty**

If you should decide to challenge the RTB finding and/or calculated civil money penalty, you must submit a written response, including the AF# found at the top of page 1 under your committee's identification number, to the FEC's Office of Administrative Review, 999 E Street,

NW, Washington, DC 20463. Your response must be received within forty (40) days of the Commission's RTB finding, on December 26, 2011. 11 CFR § 111.35(a). Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty, and must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 CFR § 111.36(c).

The FEC will only consider challenges that are based on at least one of three grounds: (1) a factual error in the RTB finding; (2) miscalculation of the calculated civil money penalty by the FEC; or (3) your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. 11 CFR § 111.35(b). In order for a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. *Id.* Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to, (1) a failure of Commission computers or Commission-provided software despite your seeking technical assistance from Commission personnel and resources; (2) a widespread disruption of information transmissions over the Internet that is not caused by a failure of the Commission's or your computer systems or Internet service provider; and (3) severe weather or other disaster-related incident. 11 CFR § 111.35(c). Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to, (1) negligence; (2) delays caused by vendors or contractors; (3) treasurer and staff illness, inexperience or unavailability; (4) committee computer, software, or Internet service provider failures; (5) failure to know filing dates; and (6) failure to use filing software properly. 11 CFR § 111.35(d).

The "failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver" of your right to present such argument in a petition to the U.S. district court under 2 U.S.C. § 437g. 11 CFR § 111.38.

If you intend to be represented by counsel, please advise the Office of Administrative Review. You should provide, in writing, the name, address and telephone number of your counsel and authorize counsel to receive notifications and communications relating to this challenge and imposition of the calculated civil money penalty.

## **2. If You Choose Not to Pay the Civil Money Penalty and Not to Submit a Challenge**

If you do not pay the calculated civil money penalty and do not submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Oakland County Democratic Party and you, in your official capacity as treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty.

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA"), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 *et seq.* The FEC may take any and all appropriate action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 CFR § 111.51(a)(2).

**3. If You Choose to Pay the Civil Money Penalty**

If you should decide to pay the calculated civil money penalty, send the enclosed remittance form, along with your payment, to the FEC at the address on page 4. Upon receipt of your payment, the FEC will send you a final determination letter.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 2 U.S.C. § 437g(a)(2). It will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and 437g(a)(12)(A) until it is placed on the public record in accordance with 11 CFR § 111.42, unless you notify the FEC in writing that you wish the matter to be made public.

As noted earlier, you may obtain additional information on the FEC's administrative fine program, including the final regulations, on the FEC's website at <http://www.fec.gov/af/af.shtml>. If you have questions regarding the payment of the calculated civil money penalty, please contact Sari Pickerall in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,



Cynthia L. Bauerly  
Chair

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**ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS**

In accordance with the schedule of penalties at 11 CFR § 111.43, the amount of your civil money penalty calculated at RTB is \$1,410 for the 2011 September Monthly Report.

Please mail this remittance with a check or money order made payable to the Federal Election Commission to the following address:

Federal Election Commission  
P.O. Box 979058  
St. Louis, MO 63197-9000

If you choose to send your remittance and payment by courier or overnight delivery, please use this address:

U.S. Bank - Government Lockbox  
FEC #979058  
1005 Convention Plaza  
Attn: Government Lockbox, SL-MO-C2GL  
St. Louis, MO 63101

The remittance and your payment are due by December 26, 2011. Upon receipt of your remittance and payment, the FEC will send you a final determination letter.

**PAYMENTS BY PERSONAL CHECK**

Personal checks will be converted into electronic funds transfers (EFTS). Your account will be electronically debited for the amount on your check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

**PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT**

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FOR: Oakland County Democratic Party

FEC ID#: C00040857

AF#: 2497

PAYMENT DUE DATE: December 26, 2011

PAYMENT AMOUNT DUE: \$1,410





# OAKLAND COUNTY DEMOCRATIC PARTY

91 N. Saginaw Street, Suite G-100  
Pontiac, MI 48342

Phone: (248) 584-0510  
Email: [info@ocdp.org](mailto:info@ocdp.org)

Fax: (248) 584-1020  
Web: [www.ocdp.org](http://www.ocdp.org)

## CHAIRMAN

Frank Houston

## VICE-CHAIRS

Mattie McKinney Hatchett  
Martha Blom  
Gregory Miles  
Tony Grillo

## RECORDING SECRETARY

Dr. Swarn Rajpal

## CORRESPONDING SECRETARY

Carla Meier

## TREASURER

Vacant

## 8TH DISTRICT VICE-CHAIR

Phil Reid

## 9TH DISTRICT CHAIR

John Ashcraft

## 11TH DISTRICT VICE-CHAIR

Richard Long

## 12TH DISTRICT CHAIR

David Coulter

## OFFICERS AT LARGE

Wanda Anderson  
Karen Costley  
Ryan J. Gesund  
Deborah Goldberg  
Christine Jensen  
Dr. Jim Kruer  
Mark Lachey  
Ethyl Rivera  
David Richards  
Jack Schneider

## Director of Operations

Angela Powell

*"I leave as I arrived,  
understanding the  
complexity of the world into  
which we were born and  
optimistic that if we give it  
our best shot, we will come  
close to achieving the goal  
set for us 200 years ago."*

*—The late U.S. Senator  
Philip A. Hart*

Federal Election Commission  
Office Of Administrative Review  
999 E Street, NW  
Washington, D.C. 20463

Re: AF#2497

We, the Oakland County Democratic Party, hereby contest the civil money penalty levied on us for late filing of the FEC report due on September 20<sup>th</sup>, 2011. While we acknowledge that the report was filed late, several unforeseen circumstances prevented us from filing the report in a timely manner. These circumstances include:

1. Our treasurer, Jerry Bixby, being incapacitated beyond his control, in a car accident on August 15<sup>th</sup>.
2. Our bookkeeper, who was made responsible for fulfilling most of the Treasurer duties, resigned September 7<sup>th</sup>, just before the September statement was due. Our new bookkeeper was not hired until September 20<sup>th</sup>, and was unable to receive training in her Campaign Finance reporting duties until September 26<sup>th</sup>, when she promptly filed the September report.
3. Due to our Party bylaws, we have been unable to fill the vacant Treasurer position until our party meeting on December 13<sup>th</sup>, 2011. Until this time, we have been filing the campaign finance statements under Mr. Bixby's name, although due to his illness, he has no knowledge of our campaign finances, and should not be held responsible for any discrepancies.

We hope you will grant us this reprieve, and we have instituted procedures to make sure our future statements are filed on time.

Thank you,

Frank Houston  
Chairman

Ryan J. Gesund  
Treasurer



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Via First Class Mail

December 29, 2011

Jerry L. Bixby, in his official capacity as Treasurer  
Oakland County Democratic Party  
91 N. Saginaw Street, Suite G-100  
Pontiac, MI 48342

C00040857  
AF#: 2497

Dear Mr. Bixby:

On December 23, 2011, the Commission received your written response ("challenge") which is being reviewed by the Office of Administrative Review. If you have any questions regarding your challenge, please contact this Office on our toll free number (800)424-9530 (press 0, then ext. 1660) or (202)694-1660.

Sincerely,

A handwritten signature in black ink, appearing to read "Dayna C. Brown".

Dayna C. Brown  
Reviewing Officer  
Office of Administrative Review

12092680983

2011 JAN -4 A 7 30

Date: December 30, 2011

**REFERRAL TO OFFICE OF ADMINISTRATIVE REVIEW  
CHALLENGE RECEIVED**

**AF#: 2497**

**Committee Name: Oakland County Democratic Party**

**Committee ID#: C00040857**

**Committee Address (if different than in RTB letter): N/A**

**Treasurer Name (if different than in RTB finding): Ryan J. Gesund**

**Attachments:**

**Copy of RTB Circulation Report, dated November 14, 2011 and RTB  
Certification, dated November 16, 2011: Y**

**Attachment #: 1**

**Proof of Delivery (to be forwarded at latter date if not yet received) (Y/N): Y**

**Attachment #: 2**

**Other Relevant Telecoms (Y/N): N**

**Attachment #: N/A**

**Original Correspondence Received by RAD in Response to RTB Letter (Y/N): N**

**Attachment #: N/A**

**RAD Staff Declaration (Y/N): Y**

**-2011 Monthly Report Prior Notice, dated January 27, 2011.**

**-RTB Letter, dated November 17, 2011.**

**Attachment #: 4**

**Other RAD Information: (Y/N): N**

**Attachment#: N/A**

12092680984



## Delivery Notification

Dear Customer,

This notice serves as proof of delivery for the shipment listed below.

**Tracking Number:** 1Z WF5 860 A2 9652 047 4  
**Reference Number(s):** RAD, 2497  
**Service:** NEXT DAY AIR  
**Special Instructions:** ADULT SIGNATURE REQUIRED  
**Shipped/Billed On:** 11/18/2011  
**Delivered On:** 11/18/2011 10:14 A.M.  
**Delivered To:** 91 N SAGINAW ST  
L101  
PONTIAC, MI, US 48342  
**Signed By:** POWEL  
**Location:** OFFICE

Thank you for giving us this opportunity to serve you.

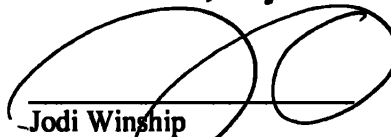
Sincerely,  
UPS

Tracking results provided by UPS: 11/18/2011 3:18 P.M. ET

12092680985

## **DECLARATION OF JODI WINSHIP**

1. I am the Chief of the Compliance Branch for the Reports Analysis Division of the Federal Election Commission ("Commission"). In my capacity as Chief of the Compliance Branch, I oversee the initial processing of the Administrative Fine Program. I make this declaration based on my personal knowledge and, if called upon as a witness, could and would testify competently to the following matters.
2. I hereby certify that documents identified herein are true and accurate copies of the following sent by the Commission to Oakland County Democratic Party:
  - A) Prior Notice, dated January 27, 2011 referencing the 2011 September Monthly Report (sent via electronic mail to: [TREASURER@OCDP.ORG](mailto:TREASURER@OCDP.ORG));
  - B) Reason-to-Believe Letter, dated November 17, 2011 referencing the 2011 September Monthly Report.
3. I hereby certify that I have searched the Commission's public records and find that Oakland County Democratic Party filed the 2011 September Monthly Report with the Commission on September 26, 2011.
4. Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct and that all relevant telecoms for the matter have been provided. This declaration was executed at Washington, D.C. on the 30<sup>th</sup> day of December, 2011.

  
Jodi Winship  
Chief, Compliance Branch  
Reports Analysis Division  
Federal Election Commission



# MONTHLY REPORT NOTICE

FEDERAL ELECTION COMMISSION

PARTIES AND PACS

January 27, 2011

## MONTHLY REPORTING SCHEDULE FOR 2011

### REPORTING DATES

| REPORT    | CLOSE<br>OF BOOKS <sup>1</sup> | REGULATORY &<br>CAMPAIGN<br>MATERIAL DEADLINE | FILING<br>DEADLINE    |
|-----------|--------------------------------|---|-----------------------|
| February  | 01/31/11                       | 02/20/11                                      | 02/20/11 <sup>2</sup> |
| March     | 02/28/11                       | 03/20/11                                      | 03/20/11 <sup>2</sup> |
| April     | 03/31/11                       | 04/20/11                                      | 04/20/11              |
| May       | 04/30/11                       | 05/20/11                                      | 05/20/11              |
| June      | 05/31/11                       | 06/20/11                                      | 06/20/11              |
| July      | 06/30/11                       | 07/20/11                                      | 07/20/11              |
| August    | 07/31/11                       | 08/20/11                                      | 08/20/11 <sup>2</sup> |
| September | 08/31/11                       | 09/20/11                                      | 09/20/11              |
| October   | 09/30/11                       | 10/20/11                                      | 10/20/11              |
| November  | 10/31/11                       | 11/20/11                                      | 11/20/11 <sup>2</sup> |
| December  | 11/30/11                       | 12/20/11                                      | 12/20/11              |
| Year-End  | 12/31/11                       | 01/31/12                                      | 01/31/12              |

[Click here for Supplemental Filing Information](#)

<sup>1</sup>A reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered up through the close of books for the first report due.

<sup>2</sup> Notice that this filing deadline falls on a weekend. Filing deadlines are not extended when they fall on nonworking days. Accordingly, reports filed by methods other than Registered, Certified or Overnight Mail, or electronically, must be received before the Commission's (or for committees supporting only Senate candidates, the Secretary of Senate Public Records Office's) close of business on the last business day before the deadline.

## 2011 SUPPLEMENTAL FILING INFORMATION PACs AND PARTY COMMITTEES

**PLEASE NOTE:** The Commission provides reminders of upcoming filing dates as a courtesy to help committees comply with the filing deadlines set forth in the Act and Commission regulations. Committee treasurers must comply with all applicable filing deadlines established by law, and the lack of prior notice does not constitute an excuse for failing to comply with any filing deadline.

### WHO MUST FILE

All Party Committees and PACs (Nonconnected Committees and Separate Segregated Funds) must file either semi-annual or monthly reports in 2011. See 11 CFR 104.5(c). Before a committee can stop filing with the FEC, it must file a termination report with the Commission. See 11 CFR 102.3. Committees must continue to file reports until the Commission notifies them in writing that their termination report has been accepted.

### METHODS OF FILING REPORTS

#### Electronic Filing

Reports filed electronically must be received and validated by the Commission by 11:59 p.m. Eastern Time on the filing deadline. See 11 CFR 104.5(e).

- Web Page: Electronic Filing Page
- Campaign Guide: Nonconnected Committees (Nonconnected), pp. 51-53 [PDF]; Corporations and Labor Organizations (SSF), pp. 49-51 [PDF]; Political Party Committees (Party), pp. 69-71 [PDF].

#### Paper Filing -- Meeting the Filing Deadline

Paper report filing options – Registered, Certified or Overnight or First Class Mail. See 11 CFR 104.5(e).

- Web Page: Link to Paper Forms (for downloading and printing)
- Campaign Guide: Nonconnected, pp. 47-48 [PDF]; SSF, pp. 45-46 [PDF]; Party, p. 65 [PDF].

### CHANGE IN FILING FREQUENCY

Committees able to change their reporting schedule (for example, from monthly to semi-annually) who wish to do so must notify the Commission in writing and may change their filing frequency no more than once per calendar year. See 11 CFR 104.5(c).

- Web Page: Filing Frequency by Type of Committee
- Campaign Guide: Nonconnected, p. 51 [PDF]; SSF, p. 49 [PDF]; Party, p. 67 [PDF].

## COMPLIANCE

### Treasurer Responsibility

Committee treasurers are responsible for both the timeliness and the accuracy of all reports. They may be subject to monetary penalties if reports are inaccurate or are not filed on time. See 11 CFR 104.14(d).

- Statement of Policy Regarding Treasurers Subject to Enforcement Proceeding [PDF]
- Campaign Guide: Nonconnected, pp. 3-4 [PDF]; SSF, pp. 1-2 [PDF]; Party, pp. 6-7 [PDF].

### Administrative Fine Program

Failure to file reports on time may be subject to civil money penalties up to \$17,600 (or more for repeat late- or non-filers). See 11 CFR 111.43(b). See generally, 11 CFR 111.30.

- Web Page: Administrative Fine Program Page
- Campaign Guide: Nonconnected, pp. 48-49 [PDF]; SSF, p. 46 [PDF]; Party, p. 66 [PDF].

## DISCLOSURE OF LOBBYIST BUNDLING ACTIVITY

Party committees and Leadership PACs must file FEC Form 3L [PDF] if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registrant PACs that aggregate in excess of the lobbyist bundling disclosure threshold during the applicable reporting period (see page 1 of this notice). See 11 CFR 104.22.

**NOTE:** The lobbyist bundling disclosure threshold for calendar year 2010 was \$16,000. This threshold amount may increase in 2011 based upon the annual cost of living adjustment (COLA). As soon as the adjusted threshold amount is available, the Commission will publish it in the Federal Register and post it on its website. See 11 CFR 110.17(e).

## 2011 REPORTING SCHEDULE

- Web Page: 2011 Reporting Dates Page
- The Record: January 2011 issue [PDF]
- Campaign Guide: Nonconnected, pp. 49-51 [PDF]; SSF, pp. 46-48 [PDF]; Party, pp. 67-68 [PDF].

## 48- AND 24-HOUR REPORTS OF INDEPENDENT EXPENDITURES

Any PAC or Party Committee that makes independent expenditures in 2011 may have to disclose this activity within 48- or 24-hours based upon the date and amount of the expenditure. See 11 CFR 104.4(b)(2) and (c). See generally, 11 CFR 104.4.

- Web Page: 2011 special election 48- and 24-hour periods for independent expenditures
- Campaign Guide: Nonconnected, pp. 72-74 [PDF]; SSF, pp. 65-67 [PDF]; Party, pp. 87-89 [PDF].

These reports are not required when a PAC or Party Committee makes a contribution directly to a candidate.

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FOR INFORMATION, CALL: (800) 424-9530 or (202) 694-1100





FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
FEC  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

2012 FEB 17 P 12:00

**SENSITIVE**

February 17, 2012

**MEMORANDUM**

To: The Commission

Through: Alec Palmer *AP*  
Staff Director

From: Patricia Carmona *PC*  
Chief Compliance Officer

Dayna C. Brown *DCB*  
Reviewing Officer  
Office of Administrative Review

Subject: Reviewing Officer Recommendation in AF# 2497 – Oakland County Democratic Party and Ryan J. Gesund, in his official capacity as Treasurer (C00040857)

The attached Reviewing Officer Recommendation is being circulated on an informational basis. A copy was also sent to the respondents in accordance with 11 C.F.R. § 111.36(f). The respondents may file with the Commission Secretary a written response within 10 days of transmittal of the recommendation.

After the 10 day period, the Reviewing Officer Recommendation and the respondents' written response, if any, will be circulated to the Commission to make a final determination.

Attachment

12092680990



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

February 17, 2012

**REVIEWING OFFICER RECOMMENDATION  
OFFICE OF ADMINISTRATIVE REVIEW ("OAR")**

AF# 2497 – Oakland County Democratic Party and Ryan J. Gesund, in his official capacity as  
Treasurer (C00040857)

**Summary of Recommendation**

Make a final determination that the respondents violated 2 U.S.C. § 434(a) and assess a \$1,410 civil money penalty.

**Reason-to-Believe Background**

On November 16, 2011, the Commission found reason to believe ("RTB") that the respondents violated 2 U.S.C. § 434(a) for failing to timely file the 2011 September Monthly Report and made a preliminary determination that the civil money penalty was \$1,410 based on the schedule of penalties at 11 C.F.R. § 111.43. A letter, dated November 17, 2011, was mailed to the respondents' address of record from the Reports Analysis Division ("RAD") to notify them of the Commission's RTB finding and civil money penalty.

**Legal Requirements**

The Federal Election Campaign Act ("Act") states that the treasurer of a political committee not authorized by a candidate shall file a report for the period ending August 31 no later than September 20. 2 U.S.C. § 434(a)(4)(B) and 11 C.F.R. § 104.5(c)(3)(i). Reports electronically filed must be received and validated at or before 11:59 pm Eastern Standard/Daylight Time on September 20 to be timely filed. 11 C.F.R. §§ 100.19(c) and 104.5(e).

**Respondents' Challenge**

On December 23, 2011, the Commission received the written response ("challenge") signed by Frank Houston, Committee Chairman, and Ryan J. Gesund, Treasurer, challenging the RTB finding based on unforeseen circumstances. They state that the report was not filed timely due to:

1. The Treasurer's involvement in a car accident on August 15
2. The September 7 resignation of their bookkeeper who was tasked with the Treasurer's duties. A new bookkeeper was not hired until September 20 and unable to receive training of her duties until September 26, when she promptly filed the report; and
3. Their inability to fill the vacant Treasurer position until their Party meeting on December 13, per their Party bylaws. They state that until this time, campaign

finance statements were filed under Mr. Bixby's name, although due to his illness, he had no knowledge of the campaign finances and should therefore not be held responsible for any discrepancies.

They request a reprieve and state that they have instituted procedures to make sure further statements are filed timely.

### **Analysis**

The 2011 September Monthly Report was filed on September 26, 2011, 6 days late.

With respect to the challenge's contention that they were not able to fill the vacant Treasurer position until their Party meeting on December 13, the regulations are clear that every political committee must have a Treasurer in order to raise or spend funds. Committees have the ability to designate an Assistant Treasurer to assume the duties and responsibilities of the Treasurer in the event of a temporary or permanent vacancy in the office. 11 C.F.R. § 102.7. According to Commission records, the respondents did not have a designated Assistant Treasurer.

Commission records indicate that on December 22, 2010 the respondents filed a Statement of Organization disclosing Jerry Bixby as Treasurer. The Statement did not disclose an Assistant Treasurer. Although the challenge indicates that Mr. Bixby was unable to fulfill his duties as Treasurer after August 15, 2011, because an Amended Statement of Organization was not filed indicating that he was no longer Treasurer, he remained the Treasurer of record on the September Monthly Report filing deadline, as well as on November 16 when the Commission found RTB that the report was not timely filed. Mr. Bixby, in his official capacity as Treasurer, was therefore named a respondent in this matter. On December 29, 2011, a Statement of Organization was filed disclosing Ryan J. Gesund as Treasurer. At this time, Mr. Gesund became the official representative of the Committee, and is therefore the respondent Treasurer in the matter going forward.

While the Reviewing Officer is sympathetic to Mr. Bixby's situation, the regulations clearly state that illness, inexperience, or unavailability of the treasurer or other staff (e.g., the bookkeeper), does not constitute extraordinary circumstances and, therefore, does not fall within the list of valid grounds for challenging the RTB finding. 11 C.F.R. § 111.35(b). The other issue raised in the challenge (their institution of procedures to ensure timely future filings) also does not fall within the list of valid grounds for challenge. These are: (i) the RTB finding is based on factual errors; and/or (ii) the improper calculation of the civil money penalty; and/or (iii) they used best efforts to file on time but were prevented from doing so by reasonably unforeseen circumstances that were beyond their control and they filed the report no later than 24 hours after the end of these circumstances. Therefore, the Reviewing Officer recommends that the Commission make a final determination that the respondents violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$1,410.

### **OAR Recommendations**

- (1) Adopt the Reviewing Officer recommendation for AF# 2497 involving the Oakland County Democratic Party and Ryan J. Gesund, in his official capacity as Treasurer, in making the final determination;
- (2) Make a final determination in AF# 2497 that the Oakland County Democratic Party and Ryan J. Gesund, in his official capacity as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$1,410; and
- (3) Send the appropriate letter.

Reviewing Officer: Dayna C. Brown

### **Attachments**

- Attachment 1 – Challenge Received from Respondents
- Attachment 2 – Declaration from RAD
- Attachment 3 – Declaration from OAR

12092680993

### DECLARATION OF DAYNA C. BROWN

1. I am the Reviewing Officer in the Office of Administrative Review for the Federal Election Commission ("Commission"). In my capacity as Reviewing Officer, I conduct research with respect to all challenges submitted in accordance with the Administrative Fine program.
2. The 2011 September Monthly Report is due September 20, 2011. If electronically filed, it must be received and validated by the Commission at or before 11:59 p.m., Eastern Standard/Daylight Time on September 20 to be timely filed.
3. I hereby certify that I have searched the Commission's public records and that the documents identified herein are true and accurate copies of:
  - a) Pages 1 through 4 of the Statement of Organization electronically filed by the Oakland County Democratic Party and Jerry L. Bixby, in his official capacity as Treasurer. According to the Commission's records, the Statement was received on December 22, 2010 and August 12, 2008 and Jerry L. Bixby is listed as Treasurer on Line 8. The Statement does not disclose an Assistant Treasurer;
  - b) Page 1 of the Summary Page for the 2011 September Monthly Report filed electronically by the Oakland County Democratic Party and Jerry L. Bixby, in his official capacity as Treasurer. According to Commission records, the Report was received on September 26, 2011; and
  - c) Pages 1 and 3 of the Statement of Organization electronically filed by the Oakland County Democratic Party and Ryan J. Gesund, in his official capacity as Treasurer. According to the Commission's records, the Statement was received on December 29, 2011 and Ryan J. Gesund is listed as Treasurer on Line 8.
4. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Washington on the 17<sup>th</sup> of February, 2012.



Dayna C. Brown  
Reviewing Officer  
Office of Administrative Review  
Federal Election Commission

12092680994

**FEC  
FORM 1****STATEMENT OF  
ORGANIZATION**

(See instructions)

Office use only

1. NAME OF COMMITTEE (in full) (Check if name is changed) Example: If typing, type over the lines 12FE4M5

Oakland County Democratic Party

ADDRESS (number and street)

30800 Telegraph Road

(Check if address is changed)

Suite 1921

Bingham Farms

MI

48025

CITY ▲

STATE ▲

ZIP CODE ▲

COMMITTEE'S E-MAIL ADDRESS (Please provide only one e-mail address)

(Check if address is changed)

treasurer@ocdp.org

COMMITTEE'S WEB PAGE ADDRESS (URL)

(Check if address is changed)

2. DATE 12 / 15 / 2010

3. FEC IDENTIFICATION NUMBER C C00040857

4. IS THIS STATEMENT X NEW (N) OR AMENDED (A)

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete

Type or Print Name of Treasurer Jerry L Bixby

Signature of Treasurer Electronically Filed by Jerry L Bixby

Date 12 / 22 / 2010

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. §437g.

ANY CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 10 DAYS

Office  
Use  
OnlyFor further information contact:  
Federal Election Commission  
Toll Free 800-424-9530  
Local 202-694-1100**FEC FORM 1**  
(Revised 02/2009)

12092680995

## 5. TYPE OF COMMITTEE (Check One)

## Candidate Committee:

- (a) This committee is a principal campaign committee. (Complete the candidate information below.)
- (b) This committee is an authorized committee, and is NOT a principal campaign committee. (Complete the candidate information below.)

Name of  
CandidateCandidate  
Party AffiliationOffice  
Sought:

House

Senate

President

State

District

- (c) This committee supports/opposes only one candidate, and is NOT an authorized committee.

Name of  
Candidate

## Party Committee:

- (d) ☒ This committee is a **SUB** (National, State (or subordinate) committee of the **DEM** (Democratic, Republican, etc.) Party.

## Political Action Committee (PAC):

- (e) This committee is a separate segregated fund. (Identify connected organization on line 6.) Its connected organization is a:

Corporation

Corporation w/o Capital Stock

Labor Organization

Membership Organization

Trade Association

Cooperative

- (f) In addition, this committee is a Lobbyist/Registrant PAC.
- This committee supports/opposes more than one Federal candidate, and is NOT a separate segregated fund or party committee. (i.e., nonconnected committee)

In addition, this committee is a Lobbyist/Registrant PAC.

In addition, this committee is a Leadership PAC. (Identify sponsor on line 6.)

## Joint Fundraising Representative:

- (g) This committee collects contributions, pays fundraising expenses and disburses net proceeds for two or more political committees/organizations, at least one of which is an authorized committee of a federal candidate.
- (h) This committee collects contributions, pays fundraising expenses and disburses net proceeds for two or more political committees/organizations, none of which is an authorized committee of a federal candidate.

## Committees Participating in Joint Fundraiser

- |    |  |               |   |
|----|--|---------------|---|
| 1. |  | FEC ID number | C |
| 2. |  | FEC ID number | C |
| 3. |  | FEC ID number | C |
| 4. |  | FEC ID number | C |

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Write or Type Committee Name

**Oakland County Democratic Party**

## 6. Name of Any Connected Organization, Affiliated Committee, Joint Fundraising Representative, or Leadership PAC Sponsor

**Michigan Democratic Party**

Mailing Address

**606 Townsend****Lansing****MI****48933**

CITY ▲

STATE ▲

ZIP CODE ▲

Relationship:

Connected Organization

☒ Affiliated Committee

Joint Fundraising Representative

Leadership PAC Sponsor

## 7. Custodian of Records: Identify by name, address, (phone number -- optional), and position of the person in possession of Committee books and records.

Full Name

Mailing Address

Title or Position ▼

CITY ▲

STATE ▲

ZIP CODE ▲

Telephone number

## 8. Treasurer: List the name and address (phone number -- optional) of the treasurer of the committee; and the name and address of any designated agent (e.g., assistant treasurer).

Full Name  
of Treasurer**Jerry L Bixby**

Mailing Address

**30000 Telegraph Road****Suite 1921****Bingham Farms****MI****48025**

Title or Position ▼

CITY ▲

STATE ▲

ZIP CODE ▲

**Treasurer**

Telephone number

**248****584****0510**

12092680997



Full Name of  
Designated  
Agent

Mailing Address

Title or Position ▼

CITY ▲

STATE ▲

ZIP CODE ▲

Telephone number

9. **Banks or Other Depositories:** List all banks or other depositories in which the committee deposits funds, holds accounts, rents safety deposit boxes or maintains funds.

Name of Bank, Depository, etc.

Fifth Thlr Bank

Mailing Address

29710 Woodward Ave

Royal Oak

MI

48073

CITY ▲

STATE ▲

ZIP CODE ▲

Name of Bank, Depository, etc.

Mailing Address

CITY ▲

STATE ▲

ZIP CODE ▲

12092680998

Image# 11931535699

**FEC  
FORM 3X****REPORT OF RECEIPTS  
AND DISBURSEMENTS**  
For Other Than An Authorized Committee

Office Use Only

1. NAME OF COMMITTEE (in full) TYPE OR PRINT ▼ Example: If typing, type over the lines. 12FE4M5

Oakland County Democratic Party

ADDRESS (number and street) ▼

91 N Saginaw Street

Suite G-100

Check if different  
than previously  
reported. (ACC)

Pontiac

MI

48342

2. FEC IDENTIFICATION NUMBER ▼ CITY ▲ STATE ▲ ZIP CODE ▲

C C00040857

3. IS THIS REPORT X NEW (N) OR AMENDED (A)

4. TYPE OF REPORT  
(Choose One)

(a) Quarterly Reports:

April 15  
Quarterly Report (Q1)July 15  
Quarterly Report (Q2)October 15  
Quarterly Report (Q3)January 31  
Year-End Report (YE)July 31 Mid-Year  
Report (Non-election  
Year Only) (MY)Termination Report  
(TER)(b) Monthly  
Report  
Due On:

Feb 20 (M2)

Mar 20 (M3)

Apr 20 (M4)

May 20 (M5)

Jun 20 (M6)

Jul 20 (M7)

Aug 20 (M8)

X Sep 20 (M9)

Oct 20 (M10)

Nov 20 (M11)  
(Non-Election  
Year Only)Dec 20 (M12)  
(Non-Election  
Year Only)

Jan 31 (YE)

(c) 12-Day

PRE-Election  
Report for the:

Primary (12P)

Convention (12C)

General (12G)

Special (12S)

Runoff (12R)

Election on

in the  
State of

(d) 30-Day

POST-Election  
Report for the:

General (30G)

Runoff (30R)

Special (30S)

Election on

in the  
State of

5. Covering Period 08 01 2011 through 08 31 2011

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer Mr. Jerry L. Bixby

Signature of Treasurer

Mr. Jerry L. Bixby

(Electronically Filed)

Date

09

22

2011

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g.

Office  
Use  
Only**FEC FORM 3X**  
Rev. 12/2004

12092680999

Image# 11953345581

PAGE 1 / 4

**FEC  
FORM 1****STATEMENT OF  
ORGANIZATION**

Office Use Only

1. NAME OF COMMITTEE (in full) (Check if name is changed) Example: If typing, type over the lines. 12FE4M5

Oakland County Democratic Party

ADDRESS (number and street)

91 N Saginaw Street

X (Check if address is changed)

Suite G-100

Pontiac

MI

48342

CITY

STATE

ZIP CODE

COMMITTEE'S E-MAIL ADDRESS (Please provide only one e-mail address)

treasurer@ocdp.org

(Check if address is changed)

COMMITTEE'S WEB PAGE ADDRESS (URL)

(Check if address is changed)

2. DATE 12 13 2011

3. FEC IDENTIFICATION NUMBER C C00040857

4. IS THIS STATEMENT X NEW (N) OR AMENDED (A)

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer Ryan J Gesund

Signature of Treasurer Ryan J Gesund

[Electronically Filed]

Date 12 13 2011

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. 5437g.

ANY CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 10 DAYS.

Office  
Use  
Only

For further information contact:  
Federal Election Commission  
Toll Free 800-424-9530  
Local 202-694-1100

**FEC FORM 1**  
(Revised 02/2009)

12092681000

Write or Type Committee Name

## Oakland County Democratic Party

## 6. Name of Any Connected Organization, Affiliated Committee, Joint Fundraising Representative, or Leadership PAC Sponsor

Michigan Democratic Party

Mailing Address

606 Townsend

Lansing

MI

48933

CITY

STATE

ZIP CODE

Relationship: Connected Organization ☒ Affiliated Committee Joint Fundraising Representative Leadership PAC Sponsor

## 7. Custodian of Records: Identify by name, address (phone number -- optional) and position of the person in possession of committee books and records.

Full Name

Mailing Address

Title or Position

CITY

STATE

ZIP CODE

Telephone number

## 8. Treasurer: List the name and address (phone number -- optional) of the treasurer of the committee; and the name and address of any designated agent (e.g., assistant treasurer).

Full Name  
of Treasurer

Ryan J. Gesund

Mailing Address

91 N Saginaw Street

Suite G-100

Pontiac

MI

48342

CITY

STATE

ZIP CODE

Title or Position  
Treasurer

Telephone number

248

584

0510

12092681001



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

VIA OVERNIGHT DELIVERY

February 22, 2012

Ryan J. Gesund, in his official capacity as Treasurer  
Oakland County Democratic Party  
91 N Saginaw Street  
Suite G-100  
Pontiac, MI 48342

C00040857  
AF# 2497

Dear Mr. Gesund:

On November 16, 2011, the Federal Election Commission ("Commission") found reason to believe ("RTB") that the Oakland County Democratic Party and Jerry L. Bixby, in his official capacity as Treasurer ("respondents"), violated 2 U.S.C. § 434(a) for failing to timely file the 2011 September Monthly Report. The Commission also made a preliminary determination that the civil money penalty was \$1,410 based on the schedule of penalties at 11 C.F.R. § 111.43.

After reviewing the written response and any supplemental information submitted by you and Commission staff, the Reviewing Officer has recommended that the Commission make a final determination in this matter. A copy of the Reviewing Officer's recommendation is attached.

You may file with the Commission Secretary a written response to the recommendation within 10 days of the date of this letter. Your written response should be sent to the Commission Secretary, 999 E Street, NW, Washington, DC 20463. As a result of the anthrax threat in the Washington, DC area, US Postal Service mail delivery to federal agencies, including the Commission, has been interrupted. Until regular mail delivery resumes, you may also file your written response with the Commission Secretary via facsimile (202-208-3333) or by courier at the same address (if you use an overnight delivery service, please use zip code 20004 instead of zip code 20463). Please include the AF # in your response. Your response may not raise any arguments not raised in your original written response or not directly responsive to the Reviewing Officer's recommendation. 11 C.F.R. § 111.36(f). The Commission will then make a final determination in this matter.

Please contact me at the toll free number 800-424-9530 (press 0, then press 1660) or 202-694-1660 if you have any questions.

Sincerely,

Dayna C. Brown  
Reviewing Officer  
Office of Administrative Review

Attachment

12092681002



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

March 27, 2012

MEMORANDUM

To: The Commission

Through: Alec Palmer  
Staff Director

From: Patricia Carmona  
Chief Compliance Officer

Dayna C. Brown *DB*  
Reviewing Officer  
Office of Administrative Review

Subject: Final Determination Recommendation in AF# 2497 – Oakland County Democratic Party and Ryan J. Gesund, in his official capacity as Treasurer (C00040857)

On November 16, 2011, the Commission found reason to believe ("RTB") that the respondents violated 2 U.S.C. § 434(a) for failing to timely file the 2010 September Monthly Report, and also made a preliminary determination that the civil money penalty was \$1,410 based on the schedule of penalties at 11 C.F.R. § 111.43.

On December 23, 2011, the Commission received their written response ("challenge"). After reviewing the challenge, the Reviewing Officer's recommendation ("ROR") dated February 17, 2012 was forwarded to the Commission, a copy was forwarded to the respondents, and is hereby incorporated by reference. The Reviewing Officer recommended that the Commission make a final determination that they violated 2 U.S.C. § 434(a) and assess a \$1,410 civil money penalty because they submitted no evidence that a factual error was made in the RTB finding, that the penalty was miscalculated at RTB or that they used best efforts to file on time. 11 C.F.R. § 111.35(b).

Within 10 days of transmittal of the recommendation, they may file a written response with the Commission Secretary which may not raise any arguments not raised in their challenge or not directly responsive to the ROR. 11 C.F.R. § 111.36(f). As of this date, a written response has not been received.

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### **OAR Recommendations**

- (1) Adopt the Reviewing Officer recommendation for AF# 2497 involving the Oakland County Democratic Party and Ryan J. Gesund, in his official capacity as Treasurer, in making the final determination;
- (2) Make a final determination in AF# 2497 that the Oakland County Democratic Party and Ryan J. Gesund, in his official capacity as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$1,410; and
- (3) Send the appropriate letter.

12092681004

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
Final Determination Recommendation: ) AF 2497  
Oakland County Democratic Party and )  
Ryan J. Gesund, in his official capacity )  
as Treasurer (C00040857) )

CERTIFICATION

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election Commission, do hereby certify that on April 05, 2012, the Commission decided by a vote of 6-0 to take the following actions in AF 2497:

1. Adopt the Reviewing Officer recommendation for AF# 2497 involving the Oakland County Democratic Party and Ryan J. Gesund, in his official capacity as Treasurer, in making the final determination.
2. Make a final determination in AF# 2497 that the Oakland County Democratic Party and Ryan J. Gesund, in his official capacity as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$1,410.
3. Send the appropriate letter.

Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

Attest:

April 5, 2012  
Date

Shawn Woodhead Werth  
Shawn Woodhead Werth  
Secretary and Clerk of the Commission

12092681005





FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

April 10, 2012

VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Ryan J. Gesund, in his official capacity as Treasurer  
Oakland County Democratic Party  
91 N Saginaw Street  
Suite G-100  
Pontiac, MI 48342

C00040857  
AF# 2497

Dear Mr. Gesund:

On November 16, 2011, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that the Oakland County Democratic Party and Jerry L. Bixby, in his official capacity as Treasurer, violated 2 U.S.C. § 434(a) for failing to timely file the 2011 September Monthly Report. By letter dated November 17, 2011, the Commission sent you notification of the RTB finding that included a civil money penalty calculated at RTB of \$1,410 in accordance with the schedule of penalties at 11 C.F.R. § 111.43. On December 23, 2011, the Office of Administrative Review received your written response, challenging the RTB finding.

The Reviewing Officer reviewed the Commission's RTB finding with its supporting documentation and the written response. Based on this review, the Reviewing Officer recommended that the Commission make a final determination that the Oakland County Democratic Party and you, in your official capacity as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty in the amount of \$1,410 in accordance with 11 C.F.R. § 111.43. The basis for the Reviewing Officer's recommendation was included in the Final Determination Report, a copy of which was sent to you on February 17, 2012.

On April 5, 2012, the Commission adopted the Reviewing Officer's recommendation and made a final determination that the Oakland County Democratic Party and you, in your official capacity as Treasurer, violated 2 U.S.C. § 434(a) and assessed a civil money penalty of \$1,410. It is based on the same factors used to calculate the civil money penalty at RTB. A copy of the final determination recommendation is attached.

**If You Choose to Appeal the Final Determination and/or Civil Money Penalty**

If you choose to appeal the final determination, you should submit a written petition, within 30 days of receipt of this letter, to the district court of the United States for the district in

12092681006

which the committee or treasurer reside, or transact business, requesting that the final determination be modified or set aside. See 2 U.S.C. § 437g(a)(4)(C)(iii). Your failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver of the respondents' right to present such argument in a petition to the district court under 2 U.S.C. § 437g. 11 C.F.R. § 111.38.

#### **If You Choose Not to Pay the Civil Money Penalty and Not to Appeal**

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA") as amended by the Debt Collection Improvement Act of 1996 ("DCIA"), 31 U.S.C. § 3701 et seq. If you do not pay this debt within 30 days (or file a written petition to a federal district court - see below), the Commission will transfer the debt to the U.S. Department of the Treasury ("Treasury") for collection. Within 5 days of the transfer to Treasury, Treasury will contact the debtor and request payment. Treasury currently charges a fee of 28% of the civil money penalty amount for its collection services, and 30% on debts over two years old. The fee will be added to the amount of the civil money penalty that you owe. Should Treasury's attempts fail, Treasury will refer the debt to a private collection agency ("PCA").

Actions which may be taken to enforce recovery of a delinquent debt by Treasury may also include: (1) offset of any payments, which the debtor is due, including tax refunds and salary; (2) referral of the debt to agency counsel for litigation; (3) reporting of the debt to a credit bureau; (4) administrative wage garnishment; and (5) reporting of the debt, if discharged, to the IRS as potential taxable income. In addition, under the provisions of DCIA and other statutes applicable to the FEC, the debtor may be subject to the assessment of other statutory interest, penalties, and administrative costs.

In accordance with the DCIA, at your request, the agency will offer you the opportunity to inspect and copy records relating to the debt, the opportunity for a review of the debt, and the opportunity to enter into a written repayment agreement.

#### **If You Choose To Pay the Civil Money Penalty**

If you should decide to pay the civil money penalty, send the enclosed form and payment to the address on page 3 within 30 days of receipt of this letter.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. The file will be made a part of the public record pursuant to 11 C.F.R. § 111.42(b). Although the file must be placed on the public record within 30 days from the date of the Commission's notification, this could occur at any time following certification of the Commission's vote.

If you have any questions regarding the payment of the civil money penalty, please contact Dayna Brown on our toll free number (800)424-9530 (press 0, then ext. 1660) or (202)694-1660.

On behalf of the Commission,



Caroline C. Hunter  
Chair

Attachment

12092681008

-----  
**ADMINISTRATIVE FINE PAYMENT INSTRUCTIONS**

In accordance with the schedule of penalties at 11 C.F.R. § 111.43, the civil money penalty is \$1,410 for 2011 September Monthly Report.

This penalty should be paid by check or money order, made payable to the Federal Election Commission. It should be sent by mail to:

Federal Election Commission  
PO Box 979058  
St. Louis, MO 63197-9000

If you choose to send your payment by courier or overnight delivery, please use this address:

U.S. Bank - Government Lockbox  
FEC # 979058  
1005 Convention Plaza  
Attn: Government Lockbox, SL-MO-C2GL  
St. Louis, MO 63101

The form and payment are due within 30 days of receipt of this letter.

**PAYMENTS BY PERSONAL CHECK**

Personal checks will be converted into electronic funds transfers (EFTs). Your account will be electronically debited for the amount on the check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

**PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT**  
-----

FOR: Oakland County Democratic Party

FEC ID#: C00040857

AF#: 2497

PAYMENT AMOUNT DUE: \$1,410

**U.S. DEPARTMENT OF THE TREASURY  
FINANCIAL MANAGEMENT SERVICE  
DEBT COLLECTION PROGRAM**

(Cross-Servicing Program and Treasury Offset Program)

**ANNUAL DEBT CERTIFICATION AGREEMENT FOR FEDERAL NONTAX DEBTS**

This Annual Debt Certification Agreement for Federal Nontax Debts (Certification Agreement) is submitted by: Federal Election Commission (Creditor Agency).

**Section I: Background**

- A. The U.S. Department of the Treasury, Financial Management Service (FMS), provides debt collection services to Federal agencies that are owed delinquent debt.
- B. Federal agencies are generally required to submit debts that have been delinquent for 180 days to FMS for debt collection services, and may submit debts sooner if the necessary prerequisites are met. See 31 U.S.C. §§ 3711(g) and 3716(c).
- C. Upon submitting debts to FMS for debt collection services, Federal agencies are required to certify to FMS, among other things, that the debts are valid, legally enforceable, there are no bars to collection, and all requisite due process has been completed, as set forth in this Certification Agreement.
- D. The definitions of terms used in this Certification Agreement are in Attachment A, Definitions of Terms Used in Certification Agreement.

**Section II: General Provisions**

The Creditor Agency understands and agrees to the following:

- A. **Scope.** The provisions of this Certification Agreement apply to all Debts submitted by Electronic Transmission, on or after the date of this Certification Agreement, by the Creditor Agency to FMS for collection through the Cross-Servicing Program and/or the Treasury Offset Program.
- B. ☒ **Certification Authority.** Only an individual with delegated authority to certify a Debt on behalf of the Creditor Agency will submit a Debt to FMS via an Add Record or Update Record. The Creditor Agency will provide a copy of this Certification Agreement to any such individual.

Rev. October 2011

12092681009

C. ***Changes to Debt Information.***

1. The Creditor Agency understands its obligation to notify FMS: (a) of any change in the amount, validity, or legal enforceability of the Debt; and (b) if the Debt becomes subject to circumstances that legally preclude or bar collection.
2. The Creditor Agency authorizes FMS to Update Records on its behalf, in accordance with criteria established by FMS, for the purpose of adding alias Debtor name information for a Debt certified by the Creditor Agency. Creditor Agency will notify FMS as soon as it learns that any such updates are incorrect.

**Section III: Debt Certification**

The Creditor Agency understands that by submitting a Debt to FMS via an Add Record or Update Record, the individual submitting the Debt is certifying to FMS, in writing, under penalty of perjury, that, to the best of his or her knowledge and belief, the following is true and correct:

A.

***General Prerequisites for Collection.***

1. ***Valid Debts.*** The Creditor Agency has made a final determination that the Debt is valid and legally enforceable in the amount stated, and that the Debt is not subject to any circumstances that legally preclude or bar collection.
2. ***Delinquent Debts.*** The Debt is delinquent, and the Debtor is not paying the Debt in accordance with any repayment plan agreed to by the Creditor Agency.
3. ***Interest, Penalties, and Administrative Costs.*** The Creditor Agency has complied with all of the provisions of 31 U.S.C. § 3717 and 31 CFR 901.9, as well as other statutes, regulations, and policies applicable to Creditor Agency's assessment of interest, penalties, and administrative costs on the Debt. The Creditor Agency has provided a written notice to the Debtor explaining the Creditor Agency's requirements concerning the assessment of interest, penalties, and administrative costs.
4. ***Debtor Disputes.*** The Creditor Agency has considered any and all evidence presented by the Debtor disputing the Creditor Agency's determination about the Debt, and there are no pending appeals of such determination that would preclude collection of the Debt.
5. ***Collection Efforts.*** The Creditor Agency has made reasonable efforts to obtain payment of the Debt, including, at a minimum, by demanding payment of the Debt.
6. ***Creditor Agency Profile Form.*** The Creditor Agency Profile Form has been completed by the Creditor Agency and is accurate and up-to-date.

**B. General Prerequisites for Collection by Offset, including Tax Refund Offset.** If, in the Creditor Agency Profile Form, the Creditor Agency has authorized FMS to collect the Debt by offsetting Federal and State tax and nontax payments:

1. **Compliance with Offset Laws.** The Creditor Agency has complied with all of the provisions of 31 U.S.C. §§ 3716 and 3720A, 31 CFR Part 285, and the Federal Claims Collection Standards (31 CFR Parts 900-904), as may be amended, as well as other statutes, regulations and policies applicable to the collection of the Debt by offset.
2. **Due Process Prerequisites.** At least 60 days prior to the Certification Date, the Creditor Agency has provided, or made a reasonable attempt to provide, in accordance with applicable offset regulations, each Debtor with:
  - a. a written notification, at the Debtor's most current known address, of the nature and the amount of the Debt, the intention of the Creditor Agency to collect the Debt through offset, including offset of Federal and State payments, and an explanation of the rights of the Debtor;
  - b. an opportunity to inspect and copy the records of the Creditor Agency with respect to the Debt;
  - c. an opportunity for review of the Creditor Agency's determination with respect to the Debt, including an opportunity to present evidence that all or part of the Debt is not delinquent or legally enforceable; and
  - d. an opportunity to enter into a written repayment agreement with the Creditor Agency.
3. **Due Process Prerequisites for Certain Older Debts.** For a Debt outstanding more than ten years on or before December 28, 2009, the Creditor Agency sent the notice described in Section III.B.2.a to the last known address of the Debtor after the Debt was outstanding for more than ten years, and afforded the Debtor the opportunities described in Sections III.B.2.b. - III.B.2.d. at that time. This requirement does not apply to any Debt that could be collected by offset without regard to any time limitation prior to December 28, 2009.

**C. Prerequisites for Collection by Federal Salary Offset.** If, through a Salary Offset Instruction, the Creditor Agency has authorized FMS to collect the Debt by offsetting Federal salary payments:

1. **Compliance with Federal Salary Offset Laws.** The Creditor Agency has complied with all of the provisions of 5 U.S.C. § 5514, 5 CFR §§ 550.1101-1110, and 31 CFR 285.7, as may be amended, as well as other statutes, regulations and policies applicable to collection by salary offset; and

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2. **Due Process Prerequisites** At least 60 days prior to the Certification Date, the Creditor Agency has provided, or made a reasonable attempt to provide, in accordance with applicable offset regulations, ~~with~~ the Debtor with the notification and opportunities required by Sections III.B.2. and III.B.3., and any other notices, opportunities, or considerations required for Federal salary offset.

D. **Consumer Reporting Agencies.** If, in the Creditor Agency Profile Form, the Creditor Agency has authorized FMS to disclose Debts to consumer reporting agencies:


1. **Compliance with Consumer Reporting Agency Requirements.** The Creditor Agency has complied with all of the provisions of 31 U.S.C. § 3711(e) and the Federal Claims Collection Standards, as well as other statutes, regulations, and policies applicable to the reporting of a delinquent Debt to consumer reporting agencies.
2. **Notice Prerequisites.** At least 60 days prior to the Certification Date, the Creditor Agency provided the Debtor with:
  - a. notification that the Debt is overdue and the Creditor Agency intends to disclose that the Debtor is responsible for the Debt to a consumer reporting agency;
  - b. the specific information to be disclosed to the consumer reporting agency; and
  - c. the Debtor's rights to an explanation of the claim, dispute the information in the Creditor Agency's records about the claim, and an administrative appeal or review of the claim; and
3. **Review Prerequisites.** Upon the request of a Debtor, the Creditor Agency has provided for a review of the Debtor's claim(s), including an opportunity for reconsideration of the initial decision on the Debt.

[Signature Page Follows]

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**Section IV: Certification**

By signing below, I certify that I have delegated authority to execute this Certification Agreement on behalf of the head of Creditor Agency.

  
Print Name: Mary Sprague  
Title: CFO  
Date: 12/14/11

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